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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,206	11/12/2003	Robert Francis de Sylva		8268
7590	02/09/2006		EXAMINER	
Robert de Sylva 161 Ocean Park Blvd. #D Santa Monica, CA 90405			PAIK, STEVE S	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/712,206	DE SYLVA, ROBERT FRANCIS	
Examiner	Art Unit		
Steven S. Paik	2876		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 November 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-44 is/are pending in the application.  
4a) Of the above claim(s) 25-44 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-24 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 12 November 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/12/03.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Receipt is acknowledged of the Amendment filed November 8, 2005. In response to the Election/Restriction requirement, the applicant elected Group I, claims 1-24 with traverse.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: the phrase, "capable of" in line 2 appears to lacking a precise and definite description of the claimed invention. The examiner respectfully suggests replacing it with -- for --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-11 and 15-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Weichert et al. (US 2004/0117302 A1).

Re claim 1, Weichert et al. disclose a payment management system (100) comprising:  
a charging terminal (POS terminal 508 in Fig. 5) capable of charging an account based on an account number (the POS terminal is coupled with a card/check reader 512 and a payment enabler 170);

a scanner (biometric reader 516) for obtaining biometric information; and

first means (payment system 140 in Fig. 2) for employing said biometric information to automatically provide an account number to said charging terminal ([0039]-[0071]).

Re claim 2, Weichert et al. disclose the system as recited in rejected claim 1 stated above, wherein said first means is a credit card or Automated Teller Machine (ATM) terminal, and wherein said account number includes a credit number and a corresponding expiration date or an ATM number and a corresponding personal identification number (The payment system includes various money handlers 160 and interfaces 180 to complete various financial transactions using the payment enabler 170.).

Re claim 3, Weichert et al. disclose the system as recited in rejected claim 1 stated above, wherein said first means includes means for automatically selecting from among plural accounts based on said biometric information ([0077]-[0084]).

Re claim 4, Weichert et al. disclose the system as recited in rejected claim 3 stated above, further including second means (various interfaces 180) for enabling a user (step 702 and [0080]) to control which account number is selected by said first means (Fig. 7b).

Re claim 5, Weichert et al. disclose the system as recited in rejected claim 4 stated above, wherein said second means includes third means (enabler interface 320) for enabling a user to prioritize plural accounts (Fig. 13), an available account with the highest priority (0084) being automatically selected by said first means (The user 110 or merchant 150,155 could prioritize these account according to some scheme).

Re claim 6, Weichert et al. disclose the system as recited in rejected claim 4 stated above, wherein said second means includes software that enables (320 in Fig. 3) a user to trigger

automatic selection of an account based on which type of biometric information or combination of biometric information that said user provides ([0063]).

Re claim 7, Weichert et al. disclose the system as recited in rejected claim 4 stated above, wherein said system further includes fourth means (billing function 312 monitors and charges for the service of the payment enabler 170) for providing transaction information, including amount of said transaction and/or type of said transaction, to said first means ([0058]).

Re claim 8, Weichert et al. disclose the system as recited in rejected claim 7 stated above, wherein said second means includes fifth means (716 in Fig. 7A and [0082]- [0084]) for enabling a user to specify selection rules or selection criteria that dictate which account is selected by said first means based on said transaction information.

Re claim 9, Weichert et al. disclose the system as recited in rejected claim 7 stated above, wherein said first means includes sixth means (Account information 706) for employing transaction type information to limit selection of account numbers to only those account numbers that are associated with accounts that are compatible with said transaction type ([0080]).

Re claim 10, Weichert et al. disclose the system as recited in rejected claim 4 stated above, wherein said first means includes a database (user database 324) that is remotely accessible to a user, said database including means for authenticating said user before allowing said user to alter account information and/or selection rules associated with accounts of said user ([0062] and [0065]).

Re claim 11, Weichert et al. disclose the system as recited in rejected claim 1 stated above, wherein system further includes seventh means (POS interface 180-7; ([0054]) for automatically providing transaction information to said charging terminal.

Re claim 15, Weichert et al. disclose a payment management system (100) comprising:

first means (biometric reader 516) for measuring one or more biological characteristics of a user;

second means (authentication processor 335) automatically selecting an account from plural accounts associated with a user and authorizing said financial transaction based on said one or more biological characteristics and providing a transaction signal in response thereto; and

third means (payment enabler 170) for implementing a funds transfer to or from said selected account in accordance with said financial transaction in response to said transaction signal (Fig. 11A-Fig. 12B).

Re claim 16, Weichert et al. disclose the system as recited in rejected claim 15 stated above, wherein said first means includes means for providing a first signal ([0071]) based on said one or more biological characteristics, said first signal acting as authorization signal, an authentication signal, and an account-selection signal, said second means providing said transaction signal based on said first signal ([0072]-[0073]).

Re claim 17, Weichert et al. disclose the system as recited in rejected claim 16 stated above, wherein said second means further includes a database (user database 324) for selectively outputting account information contained in said transaction signal based on said first signal.

Re claim 18, Weichert et al. disclose the system as recited in rejected claim 17 stated above, wherein said database includes an account list, said account list being user-configurable, thereby enabling a user to selectively control which account is automatically selected by said second means in response to said first signal (The biometric data and account information are

processed via the payment enabler 170 which provides an option to users and/or merchants to prioritize and select an appropriate account from a list of plurality of accounts. [0077]-[0084]).

Re claim 19, Weichert et al. disclose the system as recited in rejected claim 18 stated above, further including means for identifying a user (biometric reader and card/check reader) before enabling said user to access or configure information that is stored via said database (324) and that is associated with said user ([0078]).

Re claim 20, Weichert et al. disclose the system as recited in rejected claim 19 stated above, further including means for enabling (enabler interface 320) a user to predetermine account selection rules for accounts listed in said database, said selection rules determining which account is selected in response to a charge initiated by said system ([0063]).

Re claim 21, Weichert et al. disclose the system as recited in rejected claim 20 stated above, wherein said means for enabling includes a terminal (Figs. 6A, 7A and 7B disclose a screen shot of an authorization screen for an online purchase.) positioned remotely from a point-of-sale associated with said financial transaction.

Re claim 22, Weichert et al. disclose the system as recited in rejected claim 19 stated above, wherein said second means includes means for employing said first signal to authenticate said user before providing said transaction signal to said third means ([0065]).

Re claim 23, Weichert et al. disclose the system as recited in rejected claim 22 stated above, wherein said second means includes means for storing information pertaining to said one or more biological characteristics of a user when said means for employing fails to authenticate said user ([0065]; The authentication processor 335 has access to stored information in the user database 324 for each account holder along with other information available from the money

handlers 160 and other merchants 150, 155 to allow verification information during checkout. Risk of fraud could be scored for each transaction such that a merchant 150, 155 could screen out risky transactions or to allow a varying fee to be applied that reflects varying insurance costs for the fraud risk.).

Re claim 24, Weichert et al. disclose the system as recited in rejected claim 22 stated above, wherein said third means (payment enabler 170; see Figs. 2 and 3) includes a credit card, charge card, and/or Automated Teller Machine (ATM) charging module, and wherein said transaction signal includes a selected credit card, charge card, or ATM card number associated with said user and any relevant pins or dates ([0039]-[0054]).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weichert et al. (US 2004/0117302 A1) in view of Kipp (US 5,239,167).

Re claims 12-14, the teachings of Weichert et al. have been fully discussed with the exception of means for wirelessly interrogating product tags associated with products to be purchased, price information and deactivation process.

Kipp discloses a checkout system that uses radio frequency tags. An article 12 is associated with a respective transmitter means 20 for transmitting product-identifying data upon actuation and then deactivating itself. The transmitter 20 may be in the form of a tag associated

with the article and securely attached thereto to prevent accidental separation. Examples of product-identifying data may be a product price, volume or weight of the product. Once the tag successfully transmits all of the product identifying data (26), it reads an erase signal which causes deactivation of the signal trigger (24) so that the transmitter is inactivated. Once the transmitter of this article turns itself off, the remaining articles 12 in a container 10 will be read in turn in a sequence determined by the receipt by the receiver in the checkout area 14. The system allows a faster and accurate retail transactions with a minimum supervision of a store clerk or a manager.

In view of Kipp's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ a checkout system for conducting an operator-unassisted checkout in addition to the payment management system of Weichert et al. for the purposes of minimizing manpower in a retail environment while increasing checkout speed without compromising the accuracy of the retail transactions.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prorock et al. (US 2002/0169673 A1) disclose a point-of-system comprising a biometric data reader.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on Monday - Friday 5:30a-2:00p (Maxi-Flex\*).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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ssp